

REMARKS

Claims 1-11 remain pending in the above identified application and stand ready for further action on the merits.

Obviousness-Type Double Patenting Rejection

Claims 1-11 have been rejected under the judicially created doctrine of “Obviousness-Type Double Patenting” as being unpatentable over claims 1-19 of U.S. Patent No. 6,838,510 in view of Baba et al. (JP 01-40566-A, also known as JP 64-40566-A, as evidenced by the USPTO obtained translation).

Reconsideration and withdrawal of this rejection is respectfully requested based on the following comments.

It is the Examiner’s view that the basic distinction between the presently claimed invention and that of the ‘510 patent is the use of a specific aluminum flake filler in the instant claims. By contrast, the ‘510 patent generically provides for a filler (claim 1), and specifically provides for a talc filler (claims 8 and 16).

The Examiner takes the position that the use of the specified aluminum flake filler is obvious, given the teachings of JP ‘566, such that the invention defined by the instant claims would be an obvious variation of the invention claimed in the ‘510 patent.

By way of review, the claimed invention is directed to a resin composition for automotive parts, which composition exhibits excellent mechanical strength, physical properties and flowability, and enables the production of molded products possessing good metallic appearance.

The highly-desirable resin composition of the present invention is achieved by the

following:

- A propylene polymer composition comprising 50-70% by weight of a crystalline propylene/ethylene block copolymer (a-1) or a blend of (a-1) and a crystalline propylene homopolymer (a-2) having not greater than an equivalent weight of (a-1);
- 18-25% by weight of an elastomeric polymer (b);
- 15-25% by weight of an inorganic filler (c) (such as talc, clay, calcium carbonate, mica, silicates, carbonates, glass fibers, etc.);
- wherein the total amount of the respective components comprises 100% by weight; and
- an aluminum flake pigment comprised of aluminum flakes, the surface of which is coated with a polymer containing as constituent units acrylic acid, an acrylic acid ester, epoxylated polybutadiene, or divinylbenzene.

The cited '510 patent claims a composition similar to that of applicants' claim 1 with the exception that the patent describes the inorganic filler as being talc, calcium carbonate, mica, silicates, glass fiber, etc. See column 7, lines 56-58 of the patent in this regard. The '510 patent further describes various additives as optional components at column 8, lines 26-29. These additional additives include a coloring agent such as a pigment, heat stabilizer, antistatic agent, weathering stabilizer, light stabilizer, age resistor, antioxidant, UV absorbing agent, softening agent, dispersant, and lubricant. The '510 reference thus clearly fails to teach or suggest the use of an aluminum flake pigment in the claimed composition.

The Examiner relies on JP '566 to cure this deficiency of the '510 patent.

JP '566 teaches an aluminum flake coated with a copolymer and the use thereof in a metallic coating on plastics, a pigment for metallic ink or adhesives, and a filler for compounding in

synthetic resins. However, the '566 reference fails to suggest that the use of such a flake would provide advantageous results in the manner claimed by applicants.

As is apparent from the description of the '510 patent, no basis exists to modify the disclosed composition in the manner asserted by the Examiner given the fact that the listing of fillers therein is silent with regard to the use of aluminum flakes.

It should also be noted that the '566 reference was laid-open on February 10, 1989, which is prior to the priority date of the '510 patent. Accordingly, when the '510 patent was filed, the disclosure of the '566 reference was known, yet still no mention is made in the '510 reference of the use or desirability of the presence of aluminum flake. Such a deficiency in the '510 patent is, in applicants' view, evidence of the non-obviousness of the claimed invention.

Further, upon seeing the highly-desirable results attained by the resin composition for automotive parts provided by the claimed invention (see the Examples at pages 25-26 of applicants' specification), and given the fact that such results are neither anticipated nor suggested by the prior art, it is clear that one of ordinary skill in the art would not arrive at the claimed invention given the combined teachings of the cited prior art.

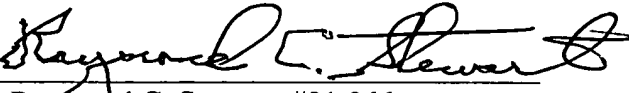
The rejection is thus without basis and should be withdrawn.

A check in the amount of \$120.00 for the requested one month extension of time is attached hereto.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Raymond C. Stewart, #21,066

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000


RCS/JWH/sh